Legislative Analysis

Mitchell Bean, Director
Phone: (517) 373-8080
http://www.house.mi.gov/hfa

SBT CREDIT FOR JOBS CREATED

Senate Bill 1093 as passed by the Senate
Sponsor: Sen. Cameron S. Brown
House Committee: Commerce
Senate Committee: Finance

First Analysis (4-28-04)

BRIEF SUMMARY: The bill would amend the Single Business Tax Act to allow employers with gross receipts for a tax year of $10 million or less to claim a credit against the SBT equal to one percent of the compensation paid to employees who performed "created jobs" in Michigan for that tax year.

FISCAL IMPACT: Senate Bill 1093 would reduce single business tax revenue (SBT), all of which accrues to the General Fund/General Purpose (GF/GP), by an estimated $3 million in FY 2004-05 and $12 million in FY 2005-06.

THE APPARENT PROBLEM:

Some people believe that Michigan's single business tax (SBT) creates a disincentive for the state's small businesses to hire new employees, leading employers to make do with fewer workers or to leave the state in search of lower taxes. The disincentive is believed to result from the fact that, under the "value added" method of computing a company's SBT liability, employee compensation and insurance benefits are used in determining the company's tax base, with its tax liability being a percentage of the base minus deductions. Therefore, when a business hires a new employee, its tax liability may increase, regardless of whether the business experiences increased revenue. It has been suggested that one way to compensate businesses for the added tax burden they may face when hiring a new employee, and to stimulate additional hiring in the state, would be to give businesses an SBT credit for newly hired employees.

THE CONTENT OF THE BILL:

The bill would amend the Single Business Tax Act to allow employers with gross receipts for a tax year of $10 million or less to claim a credit against the SBT equal to one percent of the compensation paid to employees who performed "created jobs" in Michigan for that tax year. The credit would be allowed for tax years beginning after December 31, 2004. In years in which the tax credit allowed exceeded a company's tax liability, the excess could be carried forward as an offset to tax liability in subsequent tax years for 10 tax years, or until the excess credit was used up, whichever came first.

According to the bill, "created jobs" would mean those jobs meeting all of the following criteria:

- The job did not exist in Michigan in the immediately preceding tax year.

- The job represented an overall increase in full-time equivalent jobs in Michigan for the tax year from the total number of full-time equivalent jobs in the state in the immediately preceding tax year.

- The job was not one into which an employee transferred if he or she worked in the state for the taxpayer, or an entity with which the taxpayer filed a consolidated return, in another job before beginning the created job.

- The benefits for the employee in the created job included health care coverage or health insurance.

MCL 208.37f

HOUSE COMMITTEE ACTION:

The House Committee on Commerce made no changes to the bill, but reported it in the form that it passed the Senate. Information in this analysis is derived from the analysis of that version of the bill by the Senate Fiscal Agency dated 3-23-04.

ARGUMENTS:

For:

Under the SBT as it currently stands, small businesses that take on additional employees also take on additional tax liabilities, under the standard method of filing. The proposed SBT exemption would mitigate the SBT's punishment of businesses that hire new employees. It would serve to give some incentive to employers with gross receipts of $10 million or less a year to hire new employees, by offering them a new SBT credit for one percent of the compensation paid to employees who receive health care coverage or health insurance. This would encourage the businesses to build profitability by hiring new workers rather than attempting to increase the productivity of current employees.

The proposed SBT tax credit would take some of the burdens and risks out of hiring additional employees for businesses that may be unsure of whether to increase their workforce. Adding jobs to the Michigan economy also would more than offset the loss in state revenue predicted from the credit because the new employees themselves would pay taxes such as the State income tax and sales taxes.

Response:

While it is true that the SBT tax base includes employee compensation as one of its elements, that is because it is a tax on business activity (rather than profits or gross receipts). If compensation has become too large a part of the tax base, that may be because amendments over the years have removed other factors from the base. Note also that the SBT is due to expire

Against:

The proposed tax break would constitute a windfall for those companies that would add new employees whether or not the new credit was implemented. Despite the recent downturn in statewide hiring, employers are continuing to hire when they need new workers. The bill would not provide a break only to those companies that would decide to hire based on the new SBT credit. Also, employers' tax savings from the bill would not be significant enough to spur those businesses that have been reluctant to hire into taking on additional payroll. In other words, the credit likely would not have its intended effect, although it would reduce state revenue.

Response:

The projected cost of the bill is disputable because the new hiring from the bill cannot be projected. Furthermore, the bill would send a message that the state is serious about job creation.

Against:

Many of the companies that would receive the proposed tax break use the "alternative tax rate" method to determine tax liability. This method does not take new payroll or benefits into account when determining a company's SBT liability. Therefore, these companies would receive the benefit of the credit despite the fact they do not pay additional SBT taxes on new hires. The alternative rate allows taxpayers to calculate their SBT based on income and is available to all businesses that have less than $10 million in gross receipts and adjusted business income under $475,000, and pay any individual officer or shareholder not more than $115,000.

Against:

There are concerns about how this new credit would be implemented. If a company replaces a retired worker with two new workers with differing responsibilities and different salaries, which salary would be used in calculating the credit? If a company reorganizes so as to get 150 hours of work from five 30-hour-per-week workers rather than from three 50-hour-per-week workers, is the company eligible for the credit for the new workers? State tax officials say they need guidance on these and other issues from the legislature to make the credit work. Moreover, implementation of the credit will likely require information from companies on workforce and health benefits, which could prove burdensome for both companies and state administrators.

POSITIONS:

The Department of Treasury has indicated opposition to the bill. (4-27-04)

A representative of the National Federation of Independent Business testified in support of the bill. (4-27-04)

Legislative Analyst: Chris Couch
Fiscal Analyst: Rebecca Ross